

<b>LFC Requester:</b>	<b>Scott Sanchez</b>
-----------------------	----------------------

**AGENCY BILL ANALYSIS  
2024 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:**

**AgencyAnalysis.nmlegis.gov**

*{Analysis must be uploaded as a PDF}*

**SECTION I: GENERAL INFORMATION**

*{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

Check all that apply:  
**Original**     **Amendment**    \_\_\_\_\_  
**Correction**    \_\_\_\_\_ **Substitute**    \_\_\_\_\_

**Date** January 17, 2024  
**Bill No:** HB 57

**Sponsor:** Lord  
**Short Title:** Chemical Castration for Sex Offenders

**Agency Name and Code** NM Sentencing Commission (354)  
**Number:** \_\_\_\_\_  
**Person Writing** Douglas Carver  
**Phone:** 505-239-8362 **Email** dhmcarver@unm.edu

**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		

(Parenthesis ( ) Indicate Expenditure Decreases)

**ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	<b>FY24</b>	<b>FY25</b>	<b>FY26</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>						

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:  
Duplicates/Relates to Appropriation in the General Appropriation Act

**SECTION III: NARRATIVE**

**BILL SUMMARY**

Synopsis:

HB 57 makes chemical castration a condition of parole for sex offenders.

HB 57 amends Section 31-21-10.1, concerning terms and conditions of parole for sex offenders, by requiring that the sex offender undergo chemical castration treatment as a condition of parole.

HB 57 then adds a new section of law specifying what chemical castration treatment entails. The District Court is required to inform the offender of the effect of chemical castration treatment and possible side effects. The offender has to sign an acknowledgement of that they have received the information. A person required to undergo chemical castration treatment shall begin the treatment not less than one month prior to the person's release from the custody of the Corrections Department (NMCD). If a person is incarcerated by NMCD during their parole term, NMCD is to administer the treatment; if on release, their parole officer is to inform them where to obtain the treatment. The person receiving the treatment has to authorize NMCD to share all medical records concerning chemical castration treatment with the Parole Board. The person receiving the treatment is required to pay all of the costs of the treatment. The person shall continue receiving the treatment until the Parole Board determines it is no longer necessary. If a person refuses the treatment, it is considered a violation of the person's parole and they are to be remanded to NMCD for the remainder of their sentence.

**FISCAL IMPLICATIONS**

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

**SIGNIFICANT ISSUES**

HB 57 applies to all sex offenders sentenced to a period of incarceration for their offense. There is no distinction made for the type of sex offense committed. On those grounds alone, it would likely violate the cruel and unusual punishment provisions of the US and New Mexico Constitutions.

Only a few states have some sort of chemical castration law on the books. Only three – California, Florida, and most recently (2019) Alabama – make it mandatory. In California, the law is used for repeat sex offenders whose victims were under 13. Florida makes it mandatory for repeat offenders. Alabama makes it mandatory when the victim is under 13. HB 128 appears to be based on Alabama’s law, but is far more wide-ranging. A summary of state laws can be found in the FindLaw article “Chemical and Surgical Castration for Sex Offenders” , available at: <https://www.findlaw.com/criminal/criminal-charges/chemical-and-surgical-castration.html>; last reviewed August 2023). By all accounts, the chemical castration laws in the states where it is possible have been rarely used. Critics of the existing laws note their possible violation of the cruel and unusual punishment, rights to privacy, and medical ethics.

## **PERFORMANCE IMPLICATIONS**

## **ADMINISTRATIVE IMPLICATIONS**

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

## **TECHNICAL ISSUES**

## **OTHER SUBSTANTIVE ISSUES**

## **ALTERNATIVES**

## **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

## **AMENDMENTS**